THE
HYDERABAD (APPLICATION OF CENTRAL ACTS) ACT,
No. XLVIII OF 1952.

Preamble.

Sections.

1. Short title, extent and commencement.

2. Definition.

3. Application of Central Acts to Hyderabad.

Schedule.

Annexures.

*THE HYDERABAD (APPLICATION OF CENTRAL ACTS) ACT, 1952.

NO. XLVIII OF 1952.

An Act to apply to the State of Hyderabad certain Central Acts affecting Hindu and Muslim Law.

Preamble.

WHEREAS it is expedient to apply to the State of Hyderabad certain Central Acts affecting Hindu and Muslim Law;

IT is hereby enacted as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the Hyderabad (Application of Central Acts) Act, 1952.

(2) It extends to the whole of the State of Hyderabad.

(3) It shall come into force at once.

Definition.

2. In this Act—

'appointed day' means the day on which this Act comes into force.

Application of Central Acts to Hyderabad.

3. The following Acts, namely :—

(*a*) The Hindu Inheritance (Removal of Disabilities) Act, 1928 (XII of 1928),

(*b*) The Hindu Law of Inheritance (Amendment) Act, 1929 (II of 1929),

(*c*) The Hindu Women's Rights to Property Act, 1937 (XVIII of 1937),

(*d*) The Dissolution of Muslim Marriages Act, 1939 (VIII of 1939),

(*e*) The Hindu Married Women's Right to Separate Residence and Maintenance Act, 1946 (XIX of 1946), and

(*f*) The Hindu Marriage Disabilities Removal Act, 1946 (XXVIII of 1946),

shall, with effect from the appointed day, extend to and be in force in the whole of the State of Hyderabad subject to the modifications mentioned in the Schedule and shall, accordingly, be in force in the said State with effect from the said date in the forms respectively specified in Annexures A, B, C, D, E and F to the Schedule,

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SCHEDULE.

The Hindu inheritance (Removal of Disabilities) Act, 1928 (XII of 1928).

For sub-section (2) of section 1, the following sub-section shall be substituted, namely :—

"(2) It extends to the whole of the State of Hyderabad."

The Hindu Law of Inheritance (Amendment) Act, 1929 (II of 1929).

In sub-section (2) of section 1, for the words and letter "It extends to the whole of India except Part 'B' States" the following shall be substituted namely :—

"It extends to the whole of the State of Hyderabad."

The Hindu Women's Rights to Property Act, 1937 (XVIII of 1937).

For sub-section (2) of section 1, the following sub-section shall be substituted, namely :—

"(2) It extends to the whole of the State of Hyderabad."

The Dissolution of Muslim Marriages Act, 1939 (VIII of 1939).

For sub-section (2) of section 1, the following sub-section shall be substituted, namely :—

"(2) It extends to the whole of the State of Hyderabad."

The Hindu Married Women's Right to Separate Residence and Maintenance Act, 1946 (XIX of 1946).

For sub-section (2) of section 1, the following sub-section shall be substituted, namely :—

"(2) It extends to the whole of the State of Hyderabad."

The Hindu Marriage Disabilities Removal Act, 1946 (XXVIII of 1946).

For sub-section (2) of section 1, the following sub-section shall be substituted, namely:—

"(2) It extends to the whole of the State of Hyderabad."

ANNEXURE A.

The Hindu Inheritance (Removal of Disabilities) Act, 1928 (XII of 1928) as modified by the aforesaid Schedule.

An act to amend the Hindu Law relating to exclusion from inheritance of certain classes of heirs, and to remove certain doubts.

WHEREAS it is expedient to amend the Hindu Law relating to exclusion from inheritance of certain classes of heirs, and to remove certain doubts;

It is hereby enacted as follows:—

Short title, extent and application.

1. (1) This Act may be called the Hindu Inheritance (Removal of Disabilities) Act, 1928.

(2) It extends to the whole of the State of Hyderabad.

(3) It shall not apply to any person governed by the Dayabhag School of Hindu Law.

Persons not to be excluded from inheritance or rights in joint family property.

2. Notwithstanding any rule of Hindu Law or custom to the contrary, no person governed by the Hindu Law, other than a person who is and has been from birth a lunatic or idiot, shall be excluded, from inheritance or from any right or share in joint-family property by reason only of any disease, deformity or physical or mental defect.

Saving and exception.

3. Nothing contained in this Act shall affect any right which has accrued or any liability which has been incurred before the commencement thereof, or shall be deemed to confer upon any person any right in respect of any religious office or service or of the management of any religious or charitable trust which he would not have had if this Act had not been passed.

ANNEXURE B.

The Hindu Law of Inheritance (Amendment) Act, 1929 (II of 1929) as modified by the aforesaid Schedule.

An Act to alter the order in which certain heirs of a Hindu male dying intestate are entitled to succeed to his estate.

WHEREAS it is expedient to alter the order in which certain heirs of a Hindu male dying intestate are entitled to succeed to his estate;

It is hereby enacted as follows:

Short title, extent and application.

1. (1) This Act may be called the Hindu Law of Inheritance (Amendment) Act, 1929.

(2) It extends to the whole of the State of Hyderabad, but it applies only to persons who, but for the passing of this Act, would have been subject to the Law of Mitakshara in respect of the provisions herein enacted, and it applies to such persons in respect only of the property of males not held in coparcenary and not disposed of by will.

Order of succession of certain heirs.

2. A son's daughter, daughter's daughter, sister, and sister's son shall, in the order so specified, be entitled to rank in the order of succession next after a father's father and before a father's brother:

Provided that a sister's son shall not include a son adopted after the sister's death.

Savings.

3. Nothing in this Act shall—

(*a*) affect any special family or local custom having the force of law, or

(*b*) vest in a son's daughter, daughter's daughter or sister an estate larger than, or different in kind from, that possessed by a female in property inherited by her from a male according to the School of Mitakshara Law by which the male was governed, or

(*c*) enable more than one person to succeed by inheritance to the estate of a deceased Hindu male which by a customary or other rule succession descends to a single heir.

ANNEXURE C.

The Hindu Women's Rights to Property Act, 1937 (XVIII of 1937) as modified by the aforesaid Schedule.

An Act to amend the Hindu Law governing Hindu Women's Rights to Property.

WHEREAS it is expedient to amend the Hindu Law to give better rights to women in respect of property;

IT is hereby enacted as follows:—

Short title and extent.

1. (1) This Act may be called the Hindu Women's Rights to Property Act, 1937.

(2) It extends to the whole of the State of Hyderabad.

Application.

2. Notwithstanding any rule of Hindu Law or custom to the contrary, the provisions of section 3 shall apply where a Hindu dies intestate.

Devolution of property.

3. (1) When a Hindu governed by a Dayabagh School of Hindu Law dies intestate leaving any property, and when a Hindu governed by any other School of Hindu Law or by Customary Law dies intestate leaving separate property, his widow, or if there is more than one widow all his widows together, shall, subject to the provisions of sub-section (3), be entitled in respect of property in respect of which he dies intestate to the same share as a son:

Provided that the widow of a predeceased son shall inherit in like manner as a son if there is no son surviving of such predeceased son, and shall inherit in like manner as a son's son if there is surviving a son or son's son of such predeceased son:

Provided further that the same provision shall apply *mutatis mutandis* to the widow of a predeceased son of a predeceased son.

(2) When a Hindu governed by any School of Hindu Law other than the Dayabagh School or by Customary Law dies having at the time of his death an interest in a Hindu joint-family property, his widow shall, subject to the provisions of sub-section (3), have in the property the same interest as he himself had.

(3) Any interest devolving on a Hindu widow under the provisions of this section shall be the limited interest known as a Hindu woman's estate, provided however that she shall have the same right of claiming partition as a male owner.

(4) The provisions of this section shall not apply to an estate which by a customary or other rule of succession or by the terms of the grant applicable thereto descends to a single heir or to any property to which the Indian Succession Act, 1925 applies.

Savings.

4. Nothing in this Act shall apply to the property of any Hindu dying intestate before the commencement of this Act.

Meaning of expression "die intestate."

5. For the purposes of this Act, a person shall be deemed to die intestate in respect of all property of which he has not made a testamentary disposition which is capable of taking effect.

ANNEXURE D.

The Dissolution of Muslim Marriages Act, 1939 (VIII of 1939) as modified by the aforesaid Schedule.

An Act to consolidate and clarify the provisions of Muslim Law relating to suits for dissolution of marriage by women married under Muslim Law and to remove doubts as to the effect of the renunciation of Islam by a married Muslim woman on her marriage tie.

WHEREAS it is expedient to consolidate and clarify the provisions of Muslim Law relating to suits for dissolution of marriage by women married under Muslim Law and to remove doubts as to the effect of the renunciation of Islam by a married Muslim woman on her marriage tie ;

IT is hereby enacted as follows :—

Short title and extent.

1. (1) This Act may be called the Dissolution of Muslim Marriages Act, 1939.

(2) It extends to the whole of the State of Hyderabad.

Grounds for decree for dissolution of marriage.

2. A woman married under Muslim Law shall be entitled to obtain a decree for the dissolution of her marriage on any one or more of the following grounds, namely :—

(*i*) that the whereabouts of the husband have not been known for a period of four years;

(*ii*) that the husband has neglected or has failed to provide for her maintenance for a period of two years;

(*iii*) that the husband has been sentenced to imprisonment for a period of seven years or upwards;

(*iv*) that the husband has failed to perform, without reasonable cause, his marital obligations for a period of three years;

(*v*) that the husband was impotent at the time of the marriage and continues to be so;

(*vi*) that the husband has been insane for a period of two years or is suffering from leprosy or a virulent venereal disease;

(*vii*) that she, having been given in marriage by her father or other guardian before she attained the age of fifteen years, repudiated the marriage before attaining the age of eighteen years :

Provided that the marriage has not been consummated;

(*viii*) that the husband treats her with cruelty, that is to say,—

(*a*) habitually assaults her or makes her life miserable by cruelty of conduct even if such conduct does not amount to physical ill-treatment, or

(*b*) associates with women of evil repute or leads an infamous life, or

(*c*) attempts to force her to lead an immoral life, or

(*d*) disposes of her property or prevents her exercising her legal rights over it, or

(*e*) obstructs her in the observance of her religious profession or practice, or

(*f*) if he has more wives than one, does not treat her equitably in accordance with the injunctions of the Quran;

(*ix*) on any other ground which is recognised as valid for the dissolution of marriages under Muslim Law;

Provided that—

(*a*) no decree shall be passed on ground (*iii*) until the sentence has become final;

(*b*) a decree passed on ground (*i*) shall not take effect for a period of six months from the date of such decree, and if the husband appears either in person or through an authorised agent within that period and satisfies the Court that he is prepared to perform his conjugal duties, the Court shall set aside the said decree; and

(*c*) before passing a decree on ground (*v*) the Court shall, on application by the husband, make an order requiring the husband to satisfy the Court within a period of one year from the date of such order that he has ceased to be impotent, and if the husband so satisfies the Court within such period, no decree shall be passed on the said ground.

Notice to be served on heirs of the husband when the whereabouts are not known.

3. In a suit to which clause (i) of section 2 applies—

(*a*) the names and addresses of the persons who would have been the heirs of the husband under Muslim Law if he had died on the date of the filing of the plaint shall be stated in the plaint,

(*b*) notice of the suit shall be served on such persons, and

(*c*) such person shall have the right to be heard in the suit:

Provided that paternal uncle and brother of the husband, if any, shall be cited as party even if he or they are not heirs.

Effect of conversion to another faith.

4. The renunciation of Islam by a married Muslim woman or her conversion to a faith other than Islam shall not by itself operate to dissolve her marriage:

Provided that after such renunciation, or conversion, the woman shall be entitled to obtain a decree for the dissolution of her marriage on any of the grounds mentioned in section 2:

Provided further that the provisions of this section shall not apply to a woman converted to Islam from some other faith who re-embraces her former faith.

Rights to dower not to be affected.

5. Nothing contained in this Act shall affect any right which a married woman may have under Muslim Law to her dower or any part thereof on the dissolution of her marriage.

ANNEXURE E.

The Hindu Married Women's Right to Separate Residence and Maintenance Act, 1946 (XIX of 1946) as modified by the aforesaid Schedule.

An Act to give Hindu married women a right to separate residence and maintenance under certain circumstances.

WHEREAS it is expedient to provide for the right to separate residence and maintenance under certain circumstances in the case of Hindu married women;

It is hereby enacted as follows:—

Short title and extent.

1. (1) This Act may be called the Hindu Married Women's Right to Separate Residence and Maintenance Act, 1946.

(2) It extends to the whole of the State of Hyderabad.

Grounds for claiming separate residence and maintenance.

2. Notwithstanding any custom or law to the contrary, a Hindu married woman shall be entitled to separate residence and maintenance from her husband on one or more of the following grounds, namely,—

(1) if he is suffering from any loathsome disease not contracted from her;

(2) if he is guilty of such cruelty towards her as renders it unsafe or undesirable for her to live with him;

(3) if he is guilty of desertion, that is to say, of abandoning her without her consent or against her wish;

(4) if he marries again;

(5) if he ceases to be a Hindu by conversion to another religion;

(6) if he keeps a concubine in the house or habitually resides with a concubine;

(7) for any other justifiable cause:

Provided that a Hindu married woman shall not be entitled to separate residence and maintenance from her husband if she is unchaste or ceases to be a Hindu by change to another religion or fails without sufficient cause to comply with a decree of a competent Court for the restitution of conjugal rights.

Amount of maintenance.

3. When allowing a claim for separate residence and maintenance under section 2, the Court shall determine the amount to be paid by the husband to the wife therefor, and in so doing shall have regard to the social standing of the parties and the extent of the husband's means.

ANNEXURE F.

The Hindu Marriage Disabilities Removal Act, 1946 (XXVIII of 1946) as modified by the aforesaid Schedule.

An Act to remove certain disabilities and doubts under Hindu Law in respect of marriages between Hindus.

WHEREAS it is expedient to remove certain disabilities and doubts under the Hindu Law in respect of marriages between Hindus;

It is hereby enacted as follows:—

Short title and extent.

1. (1) This Act may be called the Hindu Marriage Disabilities Removal Act, 1946.

(2) It extends to the whole of the State of Hyderabad.

Marriages between persons of same gotra or pravara or of different subdivisions of the same caste.

2. Notwithstanding any text, rule or interpretation of the Hindu Law or any custom or usage, a marriage between Hindus, which is otherwise valid, shall not be invalid by reason only of the fact that the parties thereto—

(*a*) belong to the same gotra or pravara, or

(*b*) belong to different subdivisions of the same caste.